

CONTRACT #11
RFS # 359.10-135

**Department of Children's
Services**

VENDOR:
**Digital Fusion
Solutions, Inc.**

REQUEST: NON-COMPETITIVE AMENDMENT

APPROVED

RECEIVED

APR 18 2006

Commissioner of Finance & Administration

Date:

FISCAL REVIEW

EACH REQUEST ITEM BELOW MUST BE DETAILED OR ADDRESSED AS REQUIRED.

1) RFS # 359.10-135

2) State Agency Name : Department of Children's Services

EXISTING CONTRACT INFORMATION

3) Service Caption : PowerBuilder/Jaguar Consulting/Development Services

4) Contractor : Digital Fusion Solutions, Inc.

5) Contract # FA-03-15164

6) Contract Start Date : March 1, 2003

7) Current Contract End Date IF all Options to Extend the Contract are Exercised : June 30, 2006

8) Current Total Maximum Cost IF all Options to Extend the Contract are Exercised : \$1,625,000.00

PROPOSED AMENDMENT INFORMATION

9) Proposed Amendment # 1

10) Proposed Amendment Effective Date : July 1, 2006
(attached explanation required if date is < 60 days after F&A receipt)

11) Proposed Contract End Date IF all Options to Extend the Contract are Exercised : February 28, 2008

12) Proposed Total Maximum Cost IF all Options to Extend the Contract are Exercised : \$2,750,000.00

13) Approval Criteria : (select one) ☒ use of Non-Competitive Negotiation is in the best interest of the state

☐ only one uniquely qualified service provider able to provide the service

14) Description of the Proposed Amendment Effects & Any Additional Service :

Proposed Amendment would extend the contract for two years and increase the maximum liability by \$1,125,000.00. Additional Services would be the maintenance of the current TNKIDS application while a new application is being built.

15) Explanation of Need for the Proposed Amendment :

The TN KIDS project is written in the PowerBuilder language which is no longer considered state-of-the-art. The availability of support personnel for this application is quickly decreasing. While we are exploring technological rebuilding of this application, we require personnel to maintain this application who have internal knowledge of this system.

16) Name & Address of Contractor's Current Principal Owner(s) :
(not required if proposed contractor is a state education institution)

Digital Fusion Solutions, Inc
4940-A Corporate Drive
Huntsville, AL 35805

17) Documentation of Office for Information Resources Endorsement :
(required only if the subject service involves information technology)

select one:

☐

Documentation Not Applicable to this Request

☒

Documentation Attached to this Request

18) Documentation of Department of Personnel Endorsement :
(required only if the subject service involves training for state employees)

select one:

☒

Documentation Not Applicable to this Request

☐

Documentation Attached to this Request

19) Documentation of State Architect Endorsement :
(required only if the subject service involves construction or real property related services)

select one:

☒

Documentation Not Applicable to this Request

☐

Documentation Attached to this Request

20) Description of Procuring Agency Efforts to Identify Reasonable, Competitive, Procurement Alternatives :

The Department has made no effort to identify reasonable, competitive, procurement alternatives.

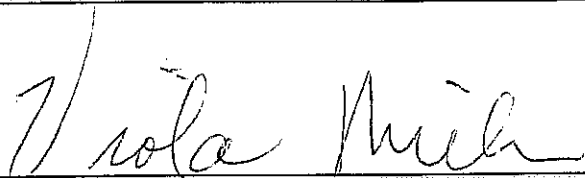
21) Justification for the Proposed Non-Competitive Amendment :

We have used personnel from Digital Fusion since April, 1998. In 1998, the Department of Finance and Administration had a contract with Digital Fusion and we were able to acquire Powerbuilder personnel through that contract. When F&A no longer had a need for Powerbuilder personnel, the contract was not extended.

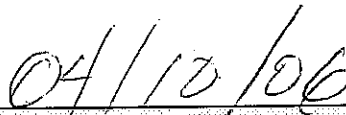
In April, 2000, the Department of Children's Services was permitted to contract with Digital Fusion for Powerbuilder programmer services since we were unable to hire employees with the needed expertise and we were also unable to find experienced personnel through the ITPRO process. In March of 2003, a contract was awarded to Digital Fusion through a non-competitive negotiation after solicitation through an alternative competitive process failed to obtain any other qualified vendors. The personnel we have received from Digital Fusion are the only development staff we have that know the entire application. They have been involved in the development of business requirements, system and program detail design and the development of the application. They are aware of the entire business and direction of our agency. To discontinue the contract at this point in our development would be devastating to the system as it is. It would be impossible to replace or re-grow their knowledge and ability at this point in the life of this application. We are currently exploring advancements in software development and have already begun an effort to re-engineer the application requirements to provide a better and more stable application for the system's users. While this effort is underway we require the services of these personnel to continue the maintenance of the current application.

REQUESTING AGENCY HEAD SIGNATURE & DATE :

(must be signed & dated by the ACTUAL procuring agency head as detailed on the Signature Certification on file with OCR— signature by an authorized signatory will be accepted only in documented exigent circumstances)



Agency Head Signature



Date



FAX TRANSMITTAL

TO : Bill Ezell, Chief Information Officer
 Office for Information Resources **FAX #** 532-0471
FROM : Kathy Jones, Director
 Contracts and Grants Management **FAX #** 244-8969
DATE : March 7, 2006
RFS # 359.10-135
RE : Procurement Endorsement — Digital Fusion Powerbuilder Programmers
 to support TNKIDS

NUMBER OF FAX PAGES (including cover) : 3

The nature and scope of service detailed in the attached service procurement document(s) appears to require Office for Information Resources (OIR) review and support, because the procurement involves information technology or information systems services.

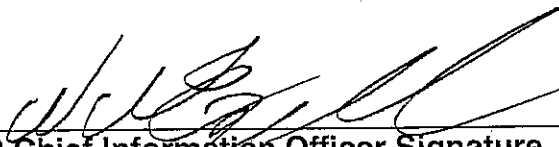
This communication seeks to ensure that OIR is aware of the procurement and has an opportunity to review the matter. Please determine whether OIR is supportive of the procurement. If you have any questions or concerns about this matter, please call Jerry Tidwell at 741-9200.


Please indicate below your response to this proposed procurement, and return this communication at your earliest convenience (note the return FAX number above).

Thank you for your help.

Attachment(s)

OIR Endorsement :


 OIR Chief Information Officer Signature


 Date

**AMENDMENT ONE
TO CONTRACT FA-03-15164
BETWEEN
DEPARTMENT OF CHILDREN'S SERVICES
AND
DIGITAL FUSION SOLUTIONS, INC.**

This Contract, by and between the State of Tennessee, Department of Children's Services, hereinafter referred to as the State, and Digital Fusion Solutions, Inc., hereinafter referred to as the Contractor, is hereby amended as follows:

1. Delete Section B.1.in its entirety and insert the following in its place:

B.1. Contract Term. This Contract shall be effective for the period commencing on March 1, 2003 and ending on June 30, 2008. The State shall have no obligation for services rendered by the Contractor which are not performed within the specified period.

2. Delete Section C.1.in its entirety and insert the following in its place:

C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed two million seven hundred fifty thousand dollars (\$2,750,000.00). The Payment Rates in Section C.3 shall constitute the entire compensation due the Contractor for the Service and all of the Contractor's obligations hereunder regardless of the difficulty, materials or equipment required. The Payment Rates include, but are not limited to, all applicable taxes, fees, overheads, profit, and all other direct and indirect costs incurred or to be incurred by the Contractor.

The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with Payment Rates detailed in Section C.3. The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.

The other terms and conditions of this Contract not amended hereby shall remain in full force and effect.

IN WITNESS WHEREOF,

DIGITAL FUSION SOLUTIONS, INC.:

CONTRACTOR SIGNATURE

DATE

CONTRACTOR SIGNATORY PRINTED NAME AND TITLE

DEPARTMENT OF CHILDREN'S SERVICES:

Viola P. Miller, Commissioner

DATE

APPROVED:

DEPARTMENT OF FINANCE AND ADMINISTRATION:

M. D. Goetz, Jr., Commissioner

DATE

COMPTROLLER OF THE TREASURY:

John G. Morgan, Comptroller of the Treasury

DATE

CONTRACT SUMMARY SHEET

RFS Number:	359.10-026	Contract Number:	FA-03-15164-00
State Agency:	Department of Children's Services	Division:	Information Services
Contractor		Contractor Identification Number	
Digital Fusion Solutions Inc.		<input checked="" type="checkbox"/> V- <input type="checkbox"/> C-	593443845

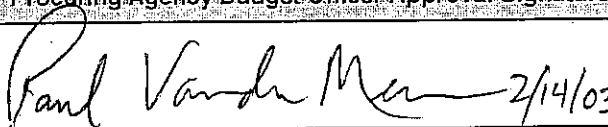
Service Description	
PowerBuilder/Jaguar Consulting/Development Services	

Contract Begin Date	Contract End Date
03/01/2003	06/30/2006

Allotment Code	Cost Center	Object Code	Fund	Grant	Grant Code	Subgrant Code
359.10	604	082	11	<input checked="" type="checkbox"/> on STARS		

FY	State Funds	Federal Funds	Interdepartmental Funds	Other Funding	Total Contract Amount (Including ALL amendments)
2003	\$101,866.00	\$12,074.50	\$41,059.50		\$155,000.00
2004	\$294,557.04	\$34,914.78	\$118,728.18		\$448,200.00
2005	\$335,763.48	\$39,799.11	\$135,337.41		\$510,900.00
2006	\$335,763.48	\$39,799.11	\$135,337.41		\$510,900.00
Total:	1,067,950.00	\$126,587.50	\$430,462.50		\$1,625,000.00

CFDA #		Check the box ONLY if the answer is YES:
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State Fiscal Contact		Is the Contractor a SUBRECIPIENT? (per OMB A-133)		
Name:	Paul Vander Meer	Is the Contractor a VENDOR? (per OMB A-133)		X
Address:	7 th Floor Cordell Hull Bldg. Nashville, TN	Is the Fiscal Year Funding STRICTLY LIMITED?		X
Phone:	615-741-8304	Is the Contractor on STARS?		X
Procuring Agency Budget Officer Approval Signature		Is the Contractor's FORM W-9 ATTACHED?		
 2/14/03		Is the Contractors Form W-9 Filed with Accounts?		X

COMPLETE FOR ALL AMENDMENTS (only)			Funding Certification	
	Base Contract & Prior Amendments	This Amendment ONLY	Pursuant to T.C.A., Section 9-6-113, I, M. D. Goetz, Jr., Commissioner of Finance and Administration, do hereby certify that there is a balance in the appropriation from which this obligation is required to be paid that is not otherwise encumbered to pay obligations previously incurred.	
END DATE →				
FY:				
FY:				
FY:				
FY:				
Total PROCESSED				

MAR 10 2003

OFFICE OF ACCOUNTS



DEPARTMENT OF CHILDREN'S SERVICES

MAR 11 2003

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OFFICE OF
MANAGEMENT SERVICES

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CONTRACT SUMMARY SHEET SUPPLEMENT							
Contract Number		359.10-026					
Fiscal Year		2003					
Allotment Code	Cost Center	Object Code	Fund	Grant Code	Subgrant Code	CFDA #	Amount
359.10	604	082	11	IVB			\$1,100.50
359.10	604	082	11	SSBG			\$10,168.00
359.10	604	082	11	IVE-FC			\$790.50
359.10	604	082	11	IVE-Adopt			\$15.50
						Total Fed.	\$12,074.50
359.10	604	082	11		TNCare	Interdept.	\$41,059.50
359.10	604	082	11			State	\$101,866.00
						Total	\$155,000.00
TOTAL							\$155,000.00

CONTRACT SUMMARY SHEET SUPPLEMENT

Contract Number	359.10-026
Fiscal Year	2004

Allotment Code	Cost Center	Object Code	Fund	Grant Code	Subgrant Code	CFDA #	Amount
359.10	604	.082	11	IVB			\$3,182.22
359.10	604	082	11	SSBG			\$29,401.92
359.10	604	082	11	IVE-FC			\$2,285.82
359.10	604	082	11	IVE-Adopt			\$44.82
						Total Fed.	\$34,914.78
359.10	604	082	11		TNCare	Interdept.	\$118,728.18
359.10	604	082	11			State	\$294,557.04
						Total	\$448,200.00
TOTAL							\$448,200.00

CONTRACT SUMMARY SHEET SUPPLEMENT

Contract Number		359.10-026					
Fiscal Year		2005					
Allotment Code	Cost Center	Object Code	Fund	Grant Code	Subgrant Code	CFDA #	Amount
359.10	604	082	11	IVB			\$3,627.39
359.10	604	082	11	SSBG			\$33,515.04
359.10	604	082	11	IVE-FC			\$2,605.59
359.10	604	082	11	IVE-Adopt			\$51.09
						Total Fed.	\$39,799.11
359.10	604	082	11		TNCare	Interdept.	\$135,337.41
359.10	604	082	11			State	\$335,763.48
						Total	\$510,900.00
TOTAL							\$510,900.00

CONTRACT SUMMARY SHEET SUPPLEMENT

Contract Number	359.10-026
Fiscal Year	2006

Allotment Code	Cost Center	Object Code	Fund	Grant Code	Subgrant Code	CFDA #	Amount
359.10	604	082	11	IVB			\$3,627.39
359.10	604	082	11	SSBG			\$33,515.04
359.10	604	082	11	IVE-FC			\$2,605.59
359.10	604	082	11	IVE-Adopt			\$51.09
						Total Fed.	\$39,799.11
359.10	604	082	11		TNCare	Interdept.	\$135,337.41
359.10	604	082	11			State	\$335,763.48
						Total	\$510,900.00
TOTAL							\$510,900.00

PROCUREMENT METHOD REQUEST

APPROVED

M D Gauthier
Commissioner of Finance & Administration

Date: 2-7-03

RFS #	359.10-022	State Agency:	Department of Children's Services
SERVICE DESCRIPTION:	Provide experienced SACWIS PowerBuilder programmer/analysts		
BEGIN DATE:	March 01, 2003	END DATE:	June 30, 2006
MAXIMUM LIABILITY (including all options for term extension):	\$1,625,000.00		
PROCUREMENT METHOD: (select one)	<input type="checkbox"/> COMPETITIVE NEGOTIATION —		
	APPROVAL CRITERIA: (select all applicable)	<input type="checkbox"/> public need will not permit the delay incident to the RFP process (attachment 1: justification of why there is insufficient time for an RFP; attachment 2: competitive negotiation procedures & contractor selection criteria)	
		<input type="checkbox"/> no acceptable proposals have been received after an RFP process (attachment: competitive negotiation procedures & contractor selection criteria)	
		<input type="checkbox"/> rates payable for the service is regulated by law (attachment: competitive negotiation procedures & contractor selection criteria)	
		<input type="checkbox"/> the service is that of a legal or expert witness (attachment: competitive negotiation procedures & contractor selection criteria)	
		<input type="checkbox"/> the total procurement cost is less than \$10,000 (attachment: competitive negotiation procedures & contractor selection criteria)	
		<input type="checkbox"/> ALTERNATIVE COMPETITIVE METHOD — Comptroller approval may be required (attachment 1: background information & justification for an alternative procurement method; attachment 2: procedures & criteria for contractor selection)	
		<input checked="" type="checkbox"/> NON-COMPETITIVE NEGOTIATION — with: Digital Fusions	
	APPROVAL CRITERIA: (select one)	<input type="checkbox"/> only one uniquely qualified service provider able to provide the service (attachment: background information & justification)	
		<input checked="" type="checkbox"/> use of Non-Competitive Negotiation is in the best interest of the state (attachment: background information & justification)	

AGENCY HEAD SIGNATURE & DATE:

Kenneth W. Stevenson

1/27/03

PRINTED NAME, TITLE, AGENCY:

Kenneth W. Stevenson, Interim Commissioner



RECEIVED
FEB 10 2003
CHILDREN'S SERVICES

ATTACHMENT I

Background Information & Justification

Under Federal law the department is required to develop and implement a State Automated Child Welfare Information System (SACWIS) and we are currently behind schedule in our implementation of the primary system and the integration of other stand-alone systems that address placement, funding, and eligibility requirements. It is critical that we maintain continuity in the development of this system as it will replace numerous systems in the department and will become the DCS legacy system.

In April of 1998 the Department of Children's Services utilized personnel from Digital Fusion as PowerBuilder developers through an existing contract between Digital Fusion and the Department of Finance and Administration (F&A). Digital Fusion's assigned project personnel are the individuals that developed the current system we are now using. When F&A no longer required Digital's services, the contract was not extended/renewed/rebid. We were then allowed to directly contract with Digital Fusion to retain experienced developers to continue our project. The contract in place will terminate March 31, 2003. Approved contract funding will be completely depleted by mid February 2003.

The Department of Children's Services is progressing in the development of the application with funding assistance from the Federal Government. Requirements were mandated in order to receive funding assistance for the Statewide Automated Child Welfare Information System (SACWIS). States participating in the project are required to submit and receive approval for the project's implementation schedule. All updates to this plan are also submitted for approval.

The two personnel from Digital Fusion have become vital to the progress of this project for the following reasons:

- The Department has made many attempts to locate and employ qualified State staff to assume these duties without success
- Both consultants have been a part of the application since early in its design and have superior knowledge of its requirements and functionality
- We are currently developing and integrating SACWIS requirements and the services of personnel with strong experience and knowledge are necessary.
- In addition the new rate proposed is less than what we are currently paying through the existing contract. The new rate is thirty (\$30.00) dollars per hour less than the original rate.

In order to retain PowerBuilder/EAServer experience, we originally requested that we be allowed to amend the current contract to retain these critical personnel. When the request was denied, we requested that we be able to receive bids through an alternative procurement process. Our request to proceed was approved.

The experience we require is strong and specific and includes personnel with excellent abilities in developing PowerBuilder/EAServer software in an Oracle environment. We also need these personnel to have complete knowledge of the SACWIS requirements and the design of our application.

Given our business requirements, the competitive process was not suitable for acquiring responsive proposals. Given these facts, an alternative procurement method was approved with the condition that we receive at least two responsive bids. We provided our requirements to eleven vendors and received two bids. One of those did not meet experience requirements after they had been dramatically reduced. We feel we have made every effort to acquire personnel but have been unsuccessful to this point. We are currently without a vehicle to acquire necessary experience.

Based on the aforementioned circumstances, we are respectfully requesting to procure the necessary services through non-competitive negotiations.



STATE OF TENNESSEE
DEPARTMENT OF FINANCE AND ADMINISTRATION
OFFICE OF CONTRACTS REVIEW
12TH FLOOR, WILLIAM R. SNODGRASS TENNESSEE TOWER
NASHVILLE, TENNESSEE 37243

FAX TRANSMITTAL

NUMBER OF PAGES (INCLUDING COVER): 3

TO:	Vic Mangrum	FAX #	532-0471
FROM:	Una Tosh, Office of Contracts Review		
DATE:	January 30, 2003		
RE:	RFS#359.10-022, Provide experienced SACWIS PowerBuilder Programmer/analyst		

This facsimile message is intended only for the use of the individual or entity named above. If the reader of the message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify the sender by telephone and return the original message to the sender. Receipt by anyone other than the intended recipient is not a waiver of any attorney-client or work-product privilege.

The above-referenced service procurement document is hereby forwarded to the Office for Information Resources (OIR) for review. The subject scope of services appears to include information systems services or technical support activities. We want to coordinate this matter with you both to ensure that you are aware of the procurement and that you have no objections.

Please review the attached to determine whether OIR is supportive of such a procurement in accordance with the rules and policy governing service contracting. If OIR is supportive, please indicate such by signing below and returning this memorandum by facsimile to the Office of Contracts Review (at 253-5811). If you identify problems with the procurement please notify us.

Please do all you can to RUSH this Procurement Method Request. The timing is crucial.

Thank you for your help.

OIR SUPPORTS THE SUBJECT PROCUREMENT

Justin Humphrey

2/4/03

Office for Information Resources

Date

D.K. Williams
2-4-2003

**CONTRACT
BETWEEN THE STATE OF TENNESSEE,
DEPARTMENT OF CHILDREN'S SERVICES
AND
DIGITAL FUSION SOLUTIONS, INC.**

This Contract, by and between the State of Tennessee, Department of Children's Services (DCS), hereinafter referred to as the "State" and Digital Fusion Solutions, Inc., hereinafter referred to as the "Contractor," is for the provision of software developers with strong skills in PowerBuilder/Jaguar systems, as further defined in the "SCOPE OF SERVICES."

The Contractor is a for-profit corporation. The Contractor's address is:

4940-A Corporate Drive
Huntsville, AL 35805

The Contractor's place of incorporation or organization is Florida.

A. SCOPE OF SERVICES:

- A.1. The Contractor will provide to the State the services of experienced and qualified PowerBuilder software developers. The experience qualifications are included in Attachment A "Department of Children's Services Requirements".
- A.2. The successful candidates will be selected from resumes submitted by the winning vendor, by phone interviews, and by face-to-face interviews at the request of the State. The State will make the final determination of the personnel's experience, qualifications, and ability. The State will notify the Contractor in writing of its acceptance or rejection of each proposed candidate.

- A.3. All work by the Contractor's staff is to be performed at 500 Deaderick Street, 14th Floor Andrew Jackson Building, Nashville, Tennessee, unless otherwise approved or requested by the State.
- A.4. The selected candidates will work as members of the Children's Services Information Resources Division in the development and maintenance of its PowerBuilder applications.
- A.5. The normal workday for the Contractor's personnel will be eight hours during the normal business hours of the State of Tennessee. The State shall approve contractor work schedules and any alterations of schedules. The Contractor's personnel will be subject to the same rules, policies, procedures, and standards of ethics as other State employees and contractors.
- A.7. The State will supply ample workspace and computer workstation equipment for Contractor personnel. Normal office supplies will also be provided. The Contractor will be responsible for all long distance phone charges for calls placed by Contractor's personnel.
- A.8. The State will notify the Contractor of personnel needs and the Contractor will respond with resumes of qualified candidates within forty-eight hours. Proposed candidates must be available for the State project within ten days of date proposed.
- A.9. The State shall review resumes of all prospective Contractor personnel and shall make the final determination of the suitability of personnel's experience and ability.
- A.10. The State reserves the right to determine the number of Contractor personnel required during the project.

B. CONTRACT TERM:

- B.1. Contract Term. This Contract shall be effective for the period commencing on March 1, 2003 and ending on June 30, 2006. The State shall have no obligation for services rendered by the Contractor which are not performed within the specified period.

C. PAYMENT TERMS AND CONDITIONS:

- C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed One Million Six Hundred Twenty Five Thousand Dollars (\$1,625,000.00). The annual liability for fiscal year 2003 shall not exceed One Hundred Fifty Five Thousand Dollars (\$155,000.00). The annual liability for fiscal year 2004 shall not exceed Four Hundred Forty Eight Thousand Two Hundred Dollars (\$448,200.00), the annual liability for fiscal year 2005 shall not exceed Five Hundred Ten Thousand Nine Hundred Dollars (\$510,900.00), and the annual liability for fiscal year 2006 shall not exceed Five Hundred Ten Thousand Nine Hundred Dollars (\$510,900.00). The Payment Rates in Section C.3 shall constitute the entire compensation due the Contractor for the Service and all of the Contractor's obligations hereunder regardless of the difficulty, materials or equipment required. The Payment Rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with the Payment Rates detailed in Section C.3. The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.

- C.2. Compensation Firm. The Payment Rates and the Maximum Liability of the State under this Contract are firm for the duration of the Contract and are not subject to escalation for any reason unless amended.

- C.3. Payment Methodology. The Contractor shall be compensated based on the Payment Rates herein for units of service authorized by the State in a total amount not to exceed the Contract Maximum Liability established in Section C.1. The Contractor shall be compensated based upon the following Payment Rates:

<u>Service</u>	<u>Maximum Payment Rate Per Hour</u>
PowerBuilder Consultant Developer	\$95.00

The State reserves the right to negotiate a lower hourly rate for any PowerBuilder Consultant Developer at any time during the term of this contract.

The Contractor shall not be compensated for travel time to the primary location of service provision.

The Contractor shall submit monthly invoices for completed work, in form and substance acceptable to the State with all of the necessary supporting documentation, prior to any payment. Such invoices shall, at a minimum, include the name of each individual, the individual's job title, the number of hours worked during the period, the applicable payment rate, the total

compensation requested for the individual, and total amount due the Contractor for the period invoiced.

- C.4. Travel Compensation. The Contractor shall not be compensated or reimbursed for travel, meals, or lodging.
- C.5. Payment of Invoice. The payment of the invoice by the State shall not prejudice the State's right to object to or question any invoice or matter in relation thereto. Such payment by the State shall neither be construed as acceptance of any part of the work or service provided nor as an approval of any of the amounts invoiced therein.
- C.6. Invoice Reductions. The Contractor's invoice shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by the State, on the basis of audits conducted in accordance with the terms of this contract, not to constitute proper remuneration for compensable services.
- C.7. Deductions. The State reserves the right to deduct from amounts which are or shall become due and payable to the Contractor under this or any contract between the Contractor and the State of Tennessee any amounts which are or shall become due and payable to the State of Tennessee by the Contractor.
- C.8. Automatic Deposits. The Contractor shall complete and sign an "Authorization Agreement for Automatic Deposit (ACH Credits) Form." This form shall be provided to the Contractor by the State. Once this form has been completed and submitted to the State by the Contractor all payments to the Contractor, under this or any other contract the Contractor has with the State of Tennessee shall be made by Automated Clearing House (ACH). The Contractor shall not invoice the State for services until the Contractor has completed this form and submitted it to the State.

D. STANDARD TERMS AND CONDITIONS:

-
- D.1. Required Approvals. The State is not bound by this Contract until it is approved by the appropriate State officials in accordance with applicable Tennessee State laws and regulations.
 - D.2. Modification and Amendment. This Contract may be modified only by a written amendment executed by all parties hereto and approved by the appropriate Tennessee State officials in accordance with applicable Tennessee State laws and regulations.
 - D.3. Termination for Convenience. The State may terminate this Contract without cause for any reason. Said termination shall not be deemed a Breach of Contract by the State. The State shall give the Contractor at least thirty (30) days written notice before the effective termination date. The Contractor shall be entitled to receive compensation for satisfactory, authorized service completed as of the termination date, but in no event shall the State be liable to the Contractor for compensation for any service which has not been rendered. Upon such termination, the Contractor shall have no right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
 - D.4. Termination for Cause. If the Contractor fails to properly perform its obligations under this Contract in a timely or proper manner, or if the Contractor violates any terms of this Contract, the State shall have the right to immediately terminate the Contract and withhold payments in excess of fair compensation for completed services. Notwithstanding the above, the Contractor shall not be relieved of liability to the State for damages sustained by virtue of any breach of this Contract by the Contractor.
 - D.5. Subcontracting. The Contractor shall not assign this Contract or enter into a subcontract for any of the services performed under this Contract without obtaining the prior written approval of the State. If such subcontracts are approved by the State, they shall contain, at a minimum, sections

of this Contract pertaining to "Conflicts of Interest" and "Nondiscrimination" (sections D.6. and D.7.). Notwithstanding any use of approved subcontractors, the Contractor shall be the prime contractor and shall be responsible for all work performed.

- D.6. Conflicts of Interest. The Contractor warrants that no part of the total Contract Amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Contractor in connection with any work contemplated or performed relative to this Contract.
- D.7. Nondiscrimination. The Contractor hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Contractor on the grounds of disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, Tennessee State constitutional, or statutory law. The Contractor shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.
- D.8. Records. The Contractor shall maintain documentation for all charges against the State under this Contract. The books, records, and documents of the Contractor, insofar as they relate to work performed or money received under this contract, shall be maintained for a period of three (3) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the State, the Comptroller of the Treasury, or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.
- D.9. Monitoring. The Contractor's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.
- D.10. Progress Reports. The Contractor shall submit brief, periodic, progress reports to the State as requested.
- D.11. Strict Performance. Failure by any party to this Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision. No term or condition of this Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the parties hereto.
- D.12. Independent Contractor. The parties hereto, in the performance of this Contract, shall not act as employees, partners, joint venturers, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting entities and that nothing in this Contract shall be construed to create an employer/employee relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.
- The Contractor, being an independent contractor and not an employee of the State, agrees to carry adequate public liability and other appropriate forms of insurance, including adequate public liability and other appropriate forms of insurance on the Contractor's employees, and to pay all applicable taxes incident to this Contract.
- D.13. State Liability. The State shall have no liability except as specifically provided in this Contract.

- D.14. Force Majeure. The obligations of the parties to this contract are subject to prevention by causes beyond the parties' control that could not be avoided by the exercise of due care including, but not limited to, acts of God, riots, wars, strikes, epidemics or any other similar cause.
- D.15. State and Federal Compliance. The Contractor shall comply with all applicable State and Federal laws and regulations in the performance of this Contract.
- D.16. Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Contractor agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Contract. The Contractor acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising therefrom, shall be subject to and limited to those rights and remedies, if any, available under **Tennessee Code Annotated**, Sections 9-8-101 through 9-8-407.
- D.17. Completeness. This Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions of the parties' agreement. This Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the parties relating hereto, whether written or oral.
- D.18. Severability. If any terms and conditions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions hereof shall not be affected thereby and shall remain in full force and effect. To this end, the terms and conditions of this Contract are declared severable.
- D.19. Headings. Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.

E. SPECIAL TERMS AND CONDITIONS:

- E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Contract, these special terms and conditions shall control.
- E.2. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Contract shall be in writing and shall be made by facsimile transmission, by overnight courier service, or by first class mail, postage prepaid, addressed to the respective party at the appropriate facsimile number or address as set forth below or to such other party, facsimile number, or address as may be hereafter specified by written notice.

The State:

Jerry Tidwell, Asst. Director of Information Resources
 Department of Children's Services
 14th Floor Andrew Jackson Building
 500 Deaderick Street
 Nashville, Tn. 37243-1290
 Telephone: 615-741-9200

The Contractor:

Jeff Williams, Area Services Manager
 Digital Fusion Solutions, Inc.
 4940-A Corporate Drive
 Huntsville, AL 35805
 Telephone: 256-837-2620 ext. 401

All instructions, notices, consents, demands, or other communications shall be considered effectively given as of the day of delivery; as of the date specified for overnight courier service

delivery; as of three (3) business days after the date of mailing; or on the day the facsimile transmission is received mechanically by the telefax machine at the receiving location and receipt is verbally confirmed by the sender if prior to 4:30 p.m. CST. Any communication by facsimile transmission shall also be sent by United States mail on the same date of the facsimile transmission.

- E.3. Subject to Funds Availability. The Contract is subject to the appropriation and availability of State and/or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate the Contract upon written notice to the Contractor. Said termination shall not be deemed a breach of Contract by the State. Upon receipt of the written notice, the Contractor shall cease all work associated with the Contract. Should such an event occur, the Contractor shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

- E.4. Breach. A party shall be deemed to have breached the Contract if any of the following occurs:

- failure to perform in accordance with any term or provision of the Contract;
- partial performance of any term or provision of the Contract;
- any act prohibited or restricted by the Contract, or
- violation of any warranty.

For purposes of this contract, these items shall hereinafter be referred to as a "Breach."

- a. Contractor Breach— The State shall notify Contractor in writing of a Breach.

- (1) In event of a Breach by Contractor, the state shall have available the remedy of Actual Damages and any other remedy available at law or equity.

- (2) ~~Liquidated Damages~~— In the event of a Breach, the State may assess Liquidated Damages. The State shall notify the Contractor of amounts to be assessed as Liquidated Damages. The parties agree that due to the complicated nature of the Contractor's obligations under this Contract it would be difficult to specifically designate a monetary amount for a Breach by Contractor as said amounts are likely to be uncertain and not easily proven. Contractor hereby represents and covenants it has carefully reviewed the Liquidated Damages contained in above referenced, Attachment B and agree that said amounts represent a reasonable relationship between the amount and what might reasonably be expected in the event of Breach, and are a reasonable estimate of the damages that would occur from a Breach. It is hereby agreed between the parties that the Liquidated Damages represent solely the damages and injuries sustained by the State in losing the benefit of the bargain with Contractor and do not include any injury or damage sustained by a third party. The Contractor agrees that the liquidated damage amount is in addition to any amounts Contractor may owe the State pursuant to the indemnity provision or other section of this Contract.

The State may continue to withhold the Liquidated Damages or a portion thereof until the Contractor cures the Breach, the State exercises its option to declare a Partial Default, or the State terminates the Contract. The State is not obligated to assess Liquidated Damages before availing itself of any other remedy. The State may choose to discontinue Liquidated Damages and avail itself of any other remedy available under this Contract or at law or equity; provided, however, Contractor shall receive a credit for said Liquidated Damages previously withheld except in the event of a Partial Default.

- (3) **Partial Default**— In the event of a Breach, the State may declare a Partial Default. In which case, the State shall provide the Contractor written notice of: (1) the date which Contractor shall terminate providing the service associated with the Breach; and (2) the date the State will begin to provide the service associated with the Breach. Notwithstanding the foregoing, the State may revise the time periods contained in the notice written to the Contractor.

In the event the State declares a Partial Default, the State may withhold, together with any other damages associated with the Breach, from the amounts due the Contractor the greater of: (1) amounts which would be paid the Contractor to provide the defaulted service; or (2) the cost to the State of providing the defaulted service, whether said service is provided by the State or a third party. To determine the amount the Contractor is being paid for any particular service, the Department shall be entitled to receive within five (5) days any requested material from Contractor. The State shall make the final and binding determination of said amount.

The State may assess Liquidated Damages against the Contractor for any failure to perform which ultimately results in a Partial Default with said Liquidated Damages to cease when said Partial Default is effective. Upon Partial Default, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount. Contractor agrees to cooperate fully with the State in the event a Partial Default is taken

- (4) **Contract Termination**— In the event of a Breach, the State may terminate the Contract immediately or in stages. The Contractor shall be notified of the termination in writing by the State. Said notice shall hereinafter be referred to as Termination Notice. The Termination Notice may specify either that the termination is to be effective immediately, on a date certain in the future, or that ~~the Contractor shall cease operations under this Contract in stages. In the event~~ of a termination, the State may withhold any amounts which may be due Contractor without waiver of any other remedy or damages available to the State at law or at equity. The Contractor shall be liable to the State for any and all damages incurred by the State and any and all expenses incurred by the State which exceed the amount the State would have paid Contractor under this Contract. Contractor agrees to cooperate with the State in the event of a Contract Termination or Partial Takeover.

- b. **State Breach**— In the event of a Breach of contract by the State, the Contractor shall notify the State in writing within 30 days of any Breach of contract by the State. Said notice shall contain a description of the Breach. Failure by the Contractor to provide said written notice shall operate as an absolute waiver by the Contractor of the State's Breach. In no event shall any Breach on the part of the State excuse the Contractor from full performance under this Contract. In the event of Breach by the State, the Contractor may avail itself of any remedy at law in the forum with appropriate jurisdiction; provided, however, failure by the Contractor to give the State written notice and opportunity to cure as described herein operates as a waiver of the State's Breach. Failure by the Contractor to file a claim before the appropriate forum in Tennessee with jurisdiction to hear such claim within one (1) year of the written notice of Breach shall operate as a waiver of said claim in its entirety. It is agreed by the parties this provision establishes a contractual period of limitations for any claim brought by the Contractor.

- E.5. **Partial Takeover.** The State may, at its convenience and without cause, exercise a partial takeover of any service which the Contractor is obligated to perform under this Contract, including but not limited to any service which is the subject of a subcontract between Contractor and a third

party, although the Contractor is not in Breach (hereinafter referred to as "Partial Takeover"). Said Partial Takeover shall not be deemed a Breach of Contract by the State. Contractor shall be given at least 30 days prior written notice of said Partial Takeover with said notice to specify the area(s) of service the State will assume and the date of said assumption. Any Partial Takeover by the State shall not alter in any way Contractor's other obligations under this Contract. The State may withhold from amounts due the Contractor the amount the Contractor would have been paid to deliver the service as determined by the State. The amounts shall be withheld effective as of the date the State assumes the service. Upon Partial Takeover, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

- E.6. State Ownership of Work Products. The State shall have all ownership right, title, and interest, including ownership of copyright, in all work products created, designed, developed, derived, documented, installed, or delivered to the State under this Contract. The State shall have royalty-free and unlimited rights to use, disclose, reproduce, or publish, for any purpose whatsoever, all said work products. The Contractor shall furnish such information and data upon request of the State, in accordance with the Contract and applicable State law.
- E.7. State Furnished Property. The Contractor shall be responsible for the correct use, maintenance, and protection of all articles of nonexpendable, tangible, personal property furnished by the State for the Contractor's temporary use under this Contract. Upon termination of this Contract, all property furnished shall be returned to the State in good order and condition as when received, reasonable use and wear thereof excepted. Should the property be destroyed, lost, or stolen, the Contractor shall be responsible to the State for the residual value of the property at the time of loss.
- E.8. Incorporation of Additional Documents. Included in this Contract by reference are the following documents:
 - a. The Contract document and its attachments
 - b. Contractor's response to the Department of Children's Service Requirements, Attachment A.
 - c. Technical Specifications provided to the Contractor

In the event of a discrepancy or ambiguity regarding the Contractor's duties, responsibilities, and performance under this Contract, these documents shall govern in order of precedence detailed above.

- E.9. Workpapers Subject to Review. The Contractor shall make all audit, accounting, or financial analysis workpapers, notes, and other documentation available for review by the Comptroller of the Treasury or his representatives, upon request, during normal working hours either while the analysis is in progress or subsequent to the completion of this Contract.
- E.10. Prohibited Advertising. The Contractor shall not refer to this Contract or the Contractor's relationship with the State hereunder in commercial advertising in such a manner as to state or imply that the Contractor or the Contractor's services are endorsed.
- E.11. Confidentiality of Records. Strict standards of confidentiality of records and information shall be maintained in accordance with applicable state and federal law. All material and information, regardless of form, medium or method of communication, provided to the Contractor by the State or acquired by the Contractor on behalf of the State shall be regarded as confidential information in accordance with the provisions of applicable state and federal law, state and federal rules and regulations, departmental policy, and ethical standards. Such confidential information shall not be disclosed, and all necessary steps shall be taken by the Contractor to safeguard the confidentiality of such material or information in conformance with applicable state and federal law, state and federal rules and regulations, departmental policy, and ethical standards.

The Contractor's obligations under this section do not apply to information in the public domain; entering the public domain but not from a breach by the Contractor of this Contract; previously possessed by the Contractor without written obligations to the State to protect it; acquired by the Contractor without written restrictions against disclosure from a third party which, to the Contractor's knowledge, is free to disclose the information; independently developed by the Contractor without the use of the State's information; or, disclosed by the State to others without restrictions against disclosure. Nothing in this paragraph shall permit Contractor to disclose any information that is confidential under federal or state law or regulations, regardless of whether it has been disclosed or made available to the Contractor due to intentional or negligent actions or inactions of agents of the State or third parties.

It is expressly understood and agreed the obligations set forth in this section shall survive the termination of this Contract.

- E.12. HIPAA Compliance. Contractor warrants to the State that it is familiar with the requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and its accompanying regulations, and will comply with all applicable HIPAA requirements in the course of this contract. Contractor warrants that it will cooperate with the State in the course of performance of the contract so that both parties will be in compliance with HIPAA, including cooperation and coordination with State privacy officials and other compliance officers required by HIPAA and its regulations. Contractor will sign any documents that are reasonably necessary to keep the State and Contractor in compliance with HIPAA, including but not limited to business associate agreements.
- E.13. Copyrights and Patents. The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims or suits which may be brought against the State for infringement of any laws regarding patents or copyrights which may arise from the Contractor's performance of this Contract. In any such action brought against the State, the Contractor shall satisfy and indemnify the State for the amount of any final judgment for infringement. The Contractor further agrees it shall be liable for the reasonable fees of attorneys for the State in the event such service is necessitated to enforce the terms of this Contract or otherwise enforce the obligations of the Contractor to the State. The State shall give the Contractor written notice of any such claim or suit and full right and opportunity to conduct the Contractor's own defense thereof.
- E.14. Environmental Tobacco Smoke. Pursuant to the provisions of the federal "Pro-Children Act of 1994" and the Tennessee "Children's Act for Clean Indoor Air of 1995," the Contractor shall prohibit smoking of tobacco products within any indoor premises in which services are provided pursuant to this Contract to individuals under the age of eighteen (18) years. The Contractor shall post "no smoking" signs in appropriate, permanent sites within such premises. This prohibition shall be applicable during all hours, not just the hours in which children are present. Violators of the prohibition may be subject to civil penalties and fines. This prohibition shall apply to and be made part of any subcontract related to this Contract.
- E.15. Authorized Individuals. Each party hereto has provided the other party hereto with a list identifying the individuals from whom the other party is authorized to accept any notices, requests, demands, or other advice which may be given hereunder by the party providing such list. Said lists, which are attached hereto as Attachment C, shall be valid until revoked or amended by further written notice. The parties hereto shall only be entitled to rely on notices, requests, demands, or other advice given by such individuals.
- E.16. Date/Time Hold Harmless. As required by **Tennessee Code Annotated**, Section 12-4-118, the contractor shall hold harmless and indemnify the State of Tennessee; its officers and employees; and any agency or political subdivision of the State for any breach of contract caused directly or indirectly by the failure of computer software or any device containing a computer processor to accurately or properly recognize, calculate, display, sort or otherwise process dates or times.

- E.17. Hold Harmless. The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims, liabilities, losses, and causes of action which may arise, accrue, or result to any person, firm, corporation, or other entity which may be injured or damaged as a result of acts, omissions, or negligence on the part of the Contractor, its employees, or any person acting for or on its or their behalf relating to this Contract. The Contractor further agrees it shall be liable for the reasonable cost of attorneys for the State in the event such service is necessitated to enforce the terms of this Contract or otherwise enforce the obligations of the Contractor to the State.

In the event of any such suit or claim, the Contractor shall give the State immediate notice thereof and shall provide all assistance required by the State in the State's defense. The State shall give the Contractor written notice of any such claim or suit, and the Contractor shall have full right and obligation to conduct the Contractor's own defense thereof. Nothing contained herein shall be deemed to accord to the Contractor, through its attorney(s), the right to represent the State of Tennessee in any legal matter, such rights being governed by **Tennessee Code Annotated**, Section 8-6-106.

- E.18. Tennessee Consolidated Retirement System. The Contractor acknowledges and understands that, subject to statutory exceptions contained in **Tennessee Code Annotated**, Section 8-36-801, *et. seq.*, the law governing the Tennessee Consolidated Retirement System, provides that if a retired member returns to State employment, the member's retirement allowance is suspended during the period of the employment. Accordingly and notwithstanding any provision of this Contract to the contrary, the Contractor agrees that if it is later determined that the true nature of the working relationship between the Contractor and the State under this Contract is that of "employee/employer" and not that of an independent contractor, the Contractor may be required to repay to the Tennessee Consolidated Retirement System the amount of retirement benefits the Contractor received from the Retirement System during the period of this Contract.

- E.19. Debarment and Suspension. The Contractor certifies, to the best of its knowledge and belief, that it and its principals:

- a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal or State department or agency;
- b. have not within a three (3) year period preceding this Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offense in connection with obtaining attempting to obtain, or performing a public (Federal, State, or Local) transaction or grant under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
- c. are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or Local) with commission of any of the offenses detailed in section b. of this certification; and
- d. have not within a three (3) year period preceding this Contract had one or more public transactions (Federal, State, or Local) terminated for cause or default.

- E.20. The State reserves the right to terminate any Contractor personnel immediately for cause.
- E.21. The State reserves the right to terminate any Contractor personnel without cause by giving two weeks written notice to the Contractor.

IN WITNESS WHEREOF:

Digital Fusion Solutions Inc.:

Roy E. Crippen LEO Roy E. Crippen 2/12/03
Signature and Title: (Print Name) Date

DEPARTMENT OF CHILDREN'S SERVICES:

Michael J. Miller / PAB 2/19/03
Michael J. Miller, Commissioner Date

APPROVED:

DEPARTMENT OF FINANCE AND ADMINISTRATION:

M. D. Goetz, Jr. BP 2-26-03
M. D. Goetz, Jr., Commissioner Date

COMPTROLLER OF THE TREASURY:

John G. Morgan 2/28/03
John G. Morgan, Comptroller of the Treasury Date

ATTACHMENT A
DEPARTMENT OF CHILDREN'S SERVICES REQUIREMENTS

The Proposer **must** be able to meet the requirements listed below in order to be considered for this project. **Failure to comply with any of the requirements will result in the entire bid being rejected.**

<input type="checkbox"/>	Proposer shall provide at least three letters of reference from current clients that utilize the Proposer's services to augment information systems technical staff. Letters of reference and contact information for each must accompany the Proposer's bid for State verification purposes. Client name, address, reference name and phone number must be included in the contact information for each reference. Positive responses to the State's reference verifications are required from all submitted client references. Failure to comply with this requirement will result in the entire bid being rejected.
<input type="checkbox"/>	Proposer must only propose candidates which meet the following qualification requirements: <ul style="list-style-type: none"> ▪ Candidates must be current employees and must have been employed by the Proposer for at least the past year, without a service break. ▪ For the past year, must have been assigned by the vendor to a large system development project (involving at least 20 information systems professionals) as a developer in a PowerBuilder/Jaguar environment. ▪ Candidates must have at least four years experience in the development of information systems projects. This experience must have occurred within the past four years. The projects must have been developed in a PowerBuilder environment. Failure to comply with this requirement will result in the entire bid being rejected.
<input type="checkbox"/>	Proposer must provide evidence that the Proposer currently has in its employ, personnel that will be offered as candidates that meet all qualification requirements and that these employments have existed for a period of at least one year without a break in service. Evidence must be provided that these personnel have been assigned to information system's projects for the past year developing in a PowerBuilder/Jaguar environment. Evidence must accompany the Proposer's bid. Failure to comply with this requirement will result in the entire bid being rejected.
<input type="checkbox"/>	Proposer must provide evidence that personnel proposed have at least four years experience in the design and development of information system's projects. This experience must have occurred within the past four years. The projects must have been developed in a PowerBuilder. Evidence must accompany the Proposer's bid. Failure to comply with this requirement will result in the entire bid being rejected.
<input type="checkbox"/>	Proposer shall submit at least four personnel profiles of Proposer's currently employed personnel that meet the qualification requirements. These consultant profiles must be typical of those proposed for this project. Letters of reference from clients that have utilized the personnel's services must accompany each of the profiles. Letters of reference and contact information for each must accompany the Proposer's bid for State verification purposes. Client name, address, reference name and phone number must be included in the contact information for each reference. Positive responses to the State's verifications are required from all submitted client references. Failure to comply with this requirement will result in the entire bid being rejected.
<input type="checkbox"/>	Should the State have an immediate need for personnel, Proposer will immediately provide resumes of personnel who have the ability to be assigned and onsite within twenty days of acceptance by the State. All subsequent requests for personnel must result in personnel submissions of

	<p>candidates with the ability to be assigned and onsite within ten days of acceptance by the State. Proposer shall provide verification that initial personnel accepted by the State shall be available to begin work within twenty days of State's acceptance and that all following personnel will be available to begin work within ten days of State's acceptance. Failure to comply with this requirement will result in the entire bid being rejected.</p>
<input type="checkbox"/>	<p><u>Proposer shall comply with all of the provisions of this document and shall accept all terms and conditions set out in the attached <i>pro forma</i> contract.</u></p> <p>Proposer Name : _____</p> <p>Proposer Signature: _____ Date: _____</p> <p>Failure to comply with this requirement will result in the entire bid being rejected.</p>

Attachment B

The State may withhold as liquidated damages **Thirty-thousand Dollars (\$30,000.00)** in the event that the Contractor's breach results in termination of the contract, such amount representing the costs and efforts necessary to procure an alternate vendor(s) to provide the defaulted services and recognizing that procuring services on a temporary and emergency basis is likely to be more costly than services procured through competitive negotiations.